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Summary record of the 2691st meeting
Held at Headquarters, New York, on Thursday, 11 March 2010, at 10 a.m.

Chair: Mr. Iwasawa

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The meeting was called to order at 10.20 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Fourth periodic report of Argentina
(CCPR/C/ARG/4) (*continued*)

1. *At the invitation of the Chair, the members of the delegation of Argentina took places at the Committee table.*

2. **Mr. Alén** (Argentina), responding to questions posed by the Committee the previous afternoon, said that the delegation had not intended to downplay the situation in Argentine prisons. His Government had acknowledged the gravity of prevailing conditions, and was currently working to resolve outstanding issues at the federal and state levels. The problem of overcrowding in prisons and police cells in the Province of Buenos Aires was being tackled through stringent measures, which had already begun to bear fruit.

3. With reference to allegations of violence by law enforcement officers, he clarified that the deaths in question had not occurred during public demonstrations, or as a result of acts of repression. Since 2003, the training of the security forces had been guided by strict protocols on conduct and best practices in the maintenance of order and crowd control. The use of firearms was strictly prohibited during public demonstrations or other gatherings, and members of the police and security corps were made aware of the need to refrain from the use of unnecessary force in their role as law enforcement officers. They were deeply conscious that any action taken should respect the public's right to freedom of expression.

4. His delegation would provide additional written information on the scope of the problem, a breakdown of security and law enforcement personnel implicated, and a list of the categories of alleged offences. The data would also include statistics detailing the involvement of public servants and security forces, the number of cases reported and brought to trial, and subsequent convictions.

5. Turning to question 13 on the list of issues in which the Committee had made specific reference to Decree No. 222/03, he explained that the Decree further bolstered the independence of the judiciary by limiting the powers of the executive branch in the process of selecting members of the Supreme Court of Justice. The Decree provided for a transparent system, under which candidates attended oral hearings before final decisions on their appointment to the Court were made.

6. With regard to the presumption of innocence and protracted periods of detention, he said that unanimous jurisprudence of the courts at all levels had established that the deprivation of freedom was an exceptional measure, rather than the rule. Furthermore, reasonable terms had been set, by virtue of which no one could be held in detention more than two years without a final settlement of the case in question. Under the current system of public defence, every accused person had the right to defence, and if a defendant could not afford legal counsel, the State provided highly qualified defenders, who were professionally equipped to dispatch their duties with a sense of commitment and integrity.

7. In response to the query on improving conditions under which mental health patients had access to justice, he said that the Government was committed to pursuing the necessary legal reforms on a broad spectrum of issues in order for such improvements to come into effect. In that context, he informed the Committee that a bill, proposed by the Chamber of Deputies, had been under discussion in the relevant Senate commissions since the end of 2009. Among other things, the bill sought full recognition of the legal personality of persons with disabilities, and of their right to be heard before the courts in dignity.

8. Awareness-raising had been one of the key approaches adopted by the State to promote the recognition of the rights of vulnerable persons, particularly those with mental disabilities. Apart from efforts to train and sensitize the judiciary and employees of local authorities, the Government had led comprehensive public information campaigns and arranged a series of multidisciplinary activities, channelled through the national branches of the Human Rights Secretariat, in conjunction with the Ministry of Justice, Security and Human Rights and the Ministry of Health.

9. **Mr. Morgado** (Argentina) said that following the adoption of the Convention on the Rights of Persons with Disabilities in 2008, domestic legislative steps had focused on article 12 of the Convention which

guaranteed the legal autonomy of persons with psychosocial disabilities and in parallel, article 141 of the Civil Code of 1871. The bills currently before the National Congress provided for support to persons with disabilities and full recognition of their rights. A programme on mental health had recently been launched to ensure the alignment of domestic legislation with the provisions of the Convention. The programme was also expected to improve the conditions under which they were accommodated in detention centres, promote the social inclusion of persons with psychosocial disabilities, enhance their ability to defend their rights and strengthen ties with local and regional organizations of persons with disabilities.

10. **Mr. Alén** (Argentina) presented a breakdown of groups on the National Register of Religions practising in Argentina, and said that they all enjoyed complete freedom of worship. The federal Government gave financial support to the Roman Catholic Church, but under the existing system of tax-exemptions, indirect economic benefits accrued to all groups on the Register. A law dating from the military dictatorship had been rejected by recent administrations, and the Secretariat for Worship had drafted a bill on religious freedom based on the recognition of the right to religious, ethnic and cultural diversity. The bill was currently under discussion, and would foster a positive relationship between the State and different faiths through a more democratic regime that protected the right to free worship.

11. He wished to combine his response to questions on the use of force by the public authorities with the delegation's reply to a similar issue raised under question 18. His Government adhered to international standards on the use of force by security forces in the course of public demonstrations and protests, and guaranteed the right of peaceful assembly. The approach to State intervention had changed over the years from one of repression to one of containment; now, the right to demonstrate was protected. Members of the security forces assigned to duty at public demonstrations were not allowed to carry lethal weapons, and in the event of mobilization, specially trained law and order forces were deployed. Since 2003, a containment division established within the federal police force helped maintain order at sporting events, public protest marches, and other venues with large concentrations of people.

12. He outlined a number of standards, guidelines and principles adopted regarding the conduct of law enforcement personnel, the use of force, crime prevention, the maintenance of public order, and restrictions imposed on the national intelligence agency in gathering data on persons or organizations.

13. With respect to the composition of the Council of the Magistrature, he explained that only 5 out of a total of 13 members were from the Government, thereby eliminating the possibility of an "automatic majority" or undue Government influence on the deliberations of the Council. Since 2003, the Council had never been led by the Executive, but mainly by representatives of academic or judicial circles totally independent from the executive branch, and even by persons who were demonstrably members of the political opposition.

14. Supplementing the information relating to the protection of witnesses given the previous day, he said that of a total of 4,300 witnesses in human rights cases, 1,000 persons had requested information on the witness protection programme, and 200 were currently under some form of protective measure. A wide range of protective action was available, including relocation or a change of identity, an early warning system, or personal security provided by members of the security forces, as deemed necessary. Applications for protection must be submitted to the authorities. An opinion was then issued by the Ministry of Justice, Security and Human Rights to determine the applicant's eligibility for inclusion in the witness protection programme and the exact nature of protection required.

15. He confirmed that new legislation on violence against women was about to be enacted and would most certainly provide for the active involvement of civil society organizations that defended the rights of women. Moreover, other mechanisms, such as the services offered by the Office of Domestic Violence, were being extended beyond the federal level to all the provincial courts in order to ensure that relevant laws were fully applicable.

16. The delegation would provide written information containing disaggregated statistics, and detailing allegations that emerged between 2006 and 2009 regarding violations, including torture, illegal deprivation of liberty and confinement.

17. Discussions on three bills on the prevention of torture were under way in the Chamber of Deputies.

Since 2008, no one group had a legislative majority to single-handedly impose a bill: all bills required a consensus among the different groups in the Chamber of Deputies and Senate. That approach ensured that the process entailed extensive debate before the adoption of laws, in keeping with international principles and standards.

18. **Mr. Morgado** (Argentina), referring to the draft amendment to Act No. 26.364 on human trafficking and its requirement to prove "lack of consent" in order to characterize an offence as human trafficking, said that the National Institute to Combat Discrimination, Xenophobia and Racism (INADI) had objected to the interpretation of the definition of human trafficking as it appeared in that Act. The Institute believed that the definition of trafficking under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, rendered the consent of the victim irrelevant, irrespective of the age of the victim. Naturally, the involvement of underaged children could be considered an aggravated circumstance in the prosecution of the crime of trafficking.

19. **Mr. Alén** (Argentina), providing further information on the progress of bills aimed at establishing and implementing a national mechanism on the prevention of torture, said that civil society organizations had made valuable contributions to the discussion of the three bills before the National Congress. One of the bills had resulted specifically from joint collaboration among several organizations under the leadership of the Centre for Legal and Social Studies (CELS). On the independence of the national mechanism, he said that once it was established by law, the State would provide all the necessary resources to guarantee the independence and effectiveness of its actions.

20. Data from a non-governmental organization (NGO) on the number of people currently in detention in the Province of Buenos Aires — referred to by Sir Nigel Rodley the previous day — corresponded with the information provided by the Ministry of Justice. His Government was not trying to overlook the severity of the problem, but rather was trying to find solutions, some of which had been more effectively implemented at the federal level and needed to be carried over to the Province of Buenos Aires. It was unfortunately not a process that advanced as quickly as one would wish.

21. **Ms. Chanet** asked the delegation to confirm whether, in some provinces, the Office of the Public Prosecutor was responsible for providing free legal defence for persons who could not afford legal counsel. She had also gathered that disciplinary procedures relating to those lawyers fell within the mandate of the Public Prosecutor. If that were indeed the case, she wished to know the source of funding for the lawyers who offered legal aid, and how their independence was ensured when they were financially and otherwise dependent on the Office of the Public Prosecutor.

22. She also wished to know whether the Argentine jurisdictional order provided for the right of review of a conviction or sentence by a higher court according to law, as required under article 14, paragraph 5, of the Covenant. She recalled that it was the usual practice for State parties that were not in a position to offer that second level of review to make a reservation with respect to article 14.

23. **Mr. Thelin** said it would be useful to learn when the necessary steps would be taken to ensure the effective implementation of the Integral Protection Act to Prevent, Punish and Eradicate Violence against Women in the context of their Interpersonal Relations throughout the national territory. In that context, he asked when national statistics on domestic violence would be compiled in order for the Government to accurately assess the scope of the problem.

24. Given the need for more liberal legislation on abortion to prevent further risks to young women because of the rather narrow interpretation of existing legislation, he urged the State party to speed up action on legislation that had been before the Ministry of Justice for quite some time.

25. He asked whether the Government intended to amend the Code of Criminal Procedure with respect to the regime on pretrial detention, rather than resort solely to case law. He was not convinced that case law was a reliable alternative since it was slow in achieving its full impact, especially at the local level.

26. **Ms. Majodina** welcomed the information on the imminent establishment of a national mechanism to prevent torture, and was especially pleased to note that civil society was actively involved in the discussions of draft bills in that regard. She was therefore keen to find out what measures would be adopted to ensure the mechanism's independence, without which its work would be futile. She sought the delegation's assurance

that there would be effective coordination between the federal system and the provincial departments in the functioning of the national mechanism in order to enable monitoring and control of detention centres throughout the national territory.

27. **Mr. Alén** (Argentina), replying to the question posed by Ms. Chanet on the assignment of official defence counsels, explained that there were two systems: at the federal level, there was a Public Prosecutor's Office and an Office of the Public Defender. Official defence counsels were attached to the latter Office, which was autonomous, financially independent, and did not receive instructions from any other entity. He clarified that the Public Prosecutor's Office and the Office of the Public Defender were completely separate bodies. Free legal assistance was also offered through the law faculties of the national universities and collegiate bodies to defendants who could not afford to hire defence of their own choosing.

28. It was true that, at the provincial level, prosecution services did not always clearly differentiate between defence counsels and prosecutors; however, that did not mean that the defenders received instructions or orders from the prosecutors. Each side acted with professional integrity and was independent and autonomous in the exercise of its functions. Provincial bar associations offered the same free legal assistance mechanisms described earlier. Moreover, the provincial bar associations regulated the conduct of defence lawyers and monitored ethics tribunals handling matters relating to discipline and ethical conduct.

29. Regarding the issue of review in a higher court, he said that the right of appeal was guaranteed in Argentina in accordance with article 14 of the Covenant. At the federal level, the Court of Criminal Cassation fully reviewed the rulings handed down by lower courts; and in the provinces, depending on the form of organization, cases were reviewed by either a court of cassation, criminal courts or correctional courts.

30. **Mr. Mattarollo** (Argentina) described certain aspects of the evolution of the Argentine justice system over the past 30 years following the restoration of constitutional order. The first constitutional Government in 1983 had ratified a series of international instruments, much to its credit, but had been somewhat cautious regarding the application of international customary laws and principles. Since then, however, the Republic of Argentina had progressed towards the full implementation of international law and its provisions.

31. The independence of the proposed national mechanism for the prevention of torture was a crucial aspect of the discussions on legislation to implement the Optional Protocol to the Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Argentina in 2004. Although the initial thinking had been to place the national mechanism within the jurisdiction of the Ministry of Justice, bills proposed more recently placed it under the jurisdiction of Congress rather than the executive branch.

32. Coordination between federal and provincial jurisdictions remained an issue of concern, to which an ultimate solution had not been found. The delegation would appreciate whatever guidance or opinion the Committee could provide in that regard.

33. **Mr. Alén** (Argentina) said that implementing legislation for the Integral Protection Act on violence against women was expected to enter into force some time in 2010. He informed the Committee that the National Women's Council had compiled national statistics on domestic violence; the delegation would be pleased to submit those data in due course.

34. In the Province of Chubut, the Supreme Court had just handed down a ruling on therapeutic abortion. One immediate result of that ruling was that the hospital system in the province had allowed another therapeutic abortion to be performed without the need for judicial intervention.

35. **Mr. Morgado** (Argentina) said that in a CELS survey of 500 doctors practising in public hospitals in the metropolitan area of Buenos Aires, 65.3 per cent had named abortion as the most important public health issue in the country. Regarding legislation on abortion, 86.7 per cent had stated that the law should not criminalize the interruption of pregnancy where there was a risk to the life or health of the mother, 83 per cent had maintained that the interruption of pregnancy should not be punishable in the case of incest or rape, and 73.5 per cent had said that public hospitals should carry out non-punishable abortions. The need for guidelines and standards in keeping with the daily practice in health institutions was highlighted by the response to the question on whether women

hospitalized for complications after unsafe abortions should be reported to the police: 73.5 per cent had agreed, while 15.5 per cent had disagreed, but 88.2 per cent of doctors had been against the imprisonment of such women. The majority of health workers seemed to be in favour of the practice of legal abortion, but there was obviously a contradiction between the current legislation and its narrow interpretation by courts at all levels.

36. **The Chair** invited the delegation to respond to questions 15 to 26 on the list of issues (CCPR/C/ARG/Q/4).

37. **Mr. Alén** (Argentina), responding to question 16, explained that Act No. 26.522 of 10 October 2009 had been adopted to replace the former Broadcasting Act, which had been carried over from the period of military dictatorship. The new law governed audio-visual communication services, in accordance with international standards and article 19 of the Covenant. It also set out the State's obligation to safeguard the right to information, participation, development of the rule of law, and the values of freedom of expression. In addition, the Act sought to promote and guarantee the free enjoyment of the right of all persons to investigate, seek, receive and disseminate information, opinions and ideas, without censorship, within the framework of respect for the democratic rule of law and human rights, in line with obligations under the Inter-American Convention on Human Rights and other treaties incorporated into the national Constitution.

38. The federal authority for audio-visual communications services, comprised of members of the Executive and the National Congress, was responsible for implementing the Act. It was assisted in that function by the Federal Council on Audio-visual Communication, which was, in turn, composed of officials representing the provinces, members of the private and public media, communications faculties, media workers, indigenous peoples and human rights NGOs, among others. Recent efforts in raising the level of freedom of expression in Argentine society had relied heavily on the involvement of civil society in the development of norms and raising public awareness. Another area of priority for the Government was the prevention of media monopolies. The Centre for Legal and Social Studies (CELS) had been instrumental in the promotion of groundbreaking norms that decriminalized slander and libel in the expression of opinion on matters of public interest. The new rules effectively extended the scope of guarantees on the right to freedom of expression in the broadest possible terms.

39. Further to the information on witness protection programmes already provided by the delegation, he said that threats continued to be issued against human rights defenders, but fortunately there had not been any recent tragic outcomes. Investigations into previous attacks were ongoing, and the delegation had been informed that a judge leading a case on the disappearance of a key witness in a high-profile trial for crimes against humanity had just made the first crucial statement relating to a suspect at an important phase of the investigations. In that context, he took the opportunity to pledge his Government's commitment to continued cooperation and open communication with the United Nations special rapporteurs through the mechanisms established by the Human Rights Council.

40. **Mr. Morgado** (Argentina) explained that an Observatory against Discrimination in Soccer (*Observatorio de Discriminacion en Futból*) had been created within the National Institute to Combat Discrimination, Xenophobia and Racism (INADI) in order to curb racial discrimination, hate crimes, xenophobia, religious intolerance and other instances of discrimination in that sport. The Observatory was composed of members of the Argentine Soccer Association, the referees association, journalists and other experts. Their main task was to review, analyse and follow up on incidents of violence and racial discrimination in sports. The Observatory also conducted comprehensive sensitization programmes in sports colleges, First Division soccer organizations and independent athletic clubs.

41. **Mr. Alén** (Argentina), referring to question 20 on the protection of minors, said that a bill on a juvenile criminal regime providing for imputability from the age of 14 had been proposed and was being discussed with a view to its final adoption by the Chamber of Deputies during its current session. Additional legislation on the protection of the rights of children and adolescents was under way. The competent State body for child protection, the National Secretariat for Children, Adolescents and Family, had formulated a national policy for the consolidation and redefinition of Government provisions, targeting young offenders through various actions, plans and programmes.

42. The activities of the National Secretariat combined with the Human Rights Secretariat highlighted the need for all provinces to build their institutional capacity and improve services for juvenile criminal justice. He was pleased at the level of progress in some provinces. The Government had also explored alternatives to institutional detention for young offenders and new "assisted freedom" accommodations, operating mostly in urban areas. Over 80 per cent of those youth housing units offered regular medical check-ups for children and adolescents. Tests for sexually transmitted diseases, including HIV/AIDS, and other sexual and reproductive health services, training programmes, artistic activities, sports, and information and counselling services were widely available.

43. Since 1992 the National Commission for the Right to Identity (CONADI), in cooperation with the State, specialized NGOs, and the Association of Grandmothers of the Plaza de Mayo, among others, had carried out investigations with a view to identifying children born to women who had been secretly jailed during the military dictatorship. Information and data, gathered by the National Genetic Data Bank through non-invasive procedures for DNA testing, had provided valuable evidence for trials on crimes against humanity. To date, over 450 million pesos had been paid in compensation to 1,000 persons, 80 per cent of whom had been children when they were jailed with their parents at the time, or had been born in captivity.

44. Turning to question 22 on the list of issues, he said that Argentine legislation did not provide for the concept of "testimonial candidacies". The term, as used by the communications media, referred to candidates who already held elected posts, and there was no conflict with the provisions of article 25 of the Covenant or national legislation. Those candidates were subject to the normal level of scrutiny; they could be openly challenged, and settlements could be sought through the National Electoral Chamber.

45. Furthermore, with respect to persons previously involved in serious human rights violations, he assured the Committee that the background of any person under consideration for a promotion or appointment in the armed forces or civil service was thoroughly checked. A law on national public service ethics and a law on democratization each contained special provisions to prevent the professional advancement of human rights violators in those two sectors. A detailed procedure was conducted by the Human Rights Secretariat, in coordination with the National Memory Archive, to screen candidates for possible human rights violations before appointment. In some cases, that process had actually led to the identification and prosecution of individuals with a criminal past. In the particular case of Luis Patti, he informed the Committee that Mr. Patti's candidacy had been unanimously rejected and he had been barred from running for office in the July 2009 legislative elections. Moreover, Mr. Patti had been held in custody for crimes against humanity, and a rich body of evidence against him had been gathered.

46. **Mr. Fernández** (Argentina) referred to the wording of question 24 and clarified that the rights of indigenous peoples were not dependent on provincial recognition, but rather the 1992 Constitution expressly recognized the cultural identity and ethnic origins of the Argentine indigenous groups, their right to bilingual education, and the legal standing of their communities. National legislation that bolstered the protection of all the rights of the indigenous peoples, including their right to ownership of lands and natural resources, was already in effect throughout the territory of Argentina, and the provinces could independently establish superior rights that guaranteed those rights set out in the Constitution, as they deemed necessary.

47. As for the displacement of indigenous groups, mentioned in question 25 on the list of issues, he said that Act No. 26160, effectively regulated community ownership of ancestral lands in over two thirds of the provinces with the largest indigenous populations. Its three main aspects were protection of indigenous peoples from displacement; certification of land ownership, and establishment of community ownership of lands that had been designated as a result of an anthropological study. Remarkable progress had been made, including at the legislative level, with some 400 million hectares being restored to indigenous communities. Current legislation protected 40,000 families from expulsion, which had unfortunately occurred in the past. He further explained that expulsions had been carried out when third parties made claims on property that had been inadvertently or intentionally sold to them, thereby disrupting the historical ownership of ancestral lands in question. Under existing laws, displacement and expulsion of that sort could no longer occur.

48. The Audio-visual Services Act not only ensured that minority groups, including indigenous peoples, had access to the media, but it also provided for the dissemination of information on the activities of indigenous organizations and the rights of indigenous peoples. The executive branch had launched a groundbreaking dialogue with organizations working on the historical recognition of indigenous peoples, their contribution to nation-building, and many other initiatives to advance their social and cultural inclusion.

49. **Mr. Rivas Posada** took the opportunity, on behalf of his colleagues, to acknowledge the work of their fellow Committee member, Mr. Fabian Omar Salvioli of Argentina. He said that Mr. Salvioli's presence on the Committee bore testimony to the State party's contribution to the development of human rights. He added that the delegation's responses to the questions posed by the Committee demonstrated the clear willingness of Argentina to cooperate in furthering the cause of human rights.

50. Although Roman Catholicism had not been declared the official State religion, the constitutional obligation of the State to support the Catholic religion gave rise to concern, not in terms of freedom of religion, but rather, in terms of potential discrimination towards other denominations. For instance, the fact that budgetary support was provided to the Catholic Church could appear discriminatory if funding was not made available to other religious groups. He would therefore be grateful for additional information on how the State avoided the adoption of measures that might be perceived as discriminatory towards other religions practised in Argentina.

51. With respect to question 18 on the list of issues, he said that internal orders by the security and police authorities were not sufficient to deter the excessive use of force against crowds. He believed that instruments having a broader legislative impact would more effectively highlight the need to respect minimum international standards. In follow-up to information presented on the outcome of cases by virtue of which the identities of persons born in prisons had been restored, he was curious to know how much progress had been made in finding the persons who had actually masterminded those violations and subsequent cover-up. He also wished to know what penalties had been imposed on persons found guilty thus far.

52. **Ms. Motoc** asked the delegation to indicate what the State party was doing to improve access to justice by mental health patients and ensure recognition of their legal personality.

53. Turning to the issue of freedom of expression, she asked the delegation whether archaic legislation carried over from the period of military dictatorship had remained in effect. She was interested in knowing what measures had been adopted by the Government to guarantee the rights of indigenous peoples uniformly throughout the national territory, and what strategies were used to disseminate information on the Covenant and to enhance its visibility at the judicial level.

54. **Ms. Majodina** referred to reports that elements in the security forces were linked to persons involved in the commission of gross human rights violations during the dictatorship, which implied that the security forces had the power to destabilize the process of justice. She recalled that even in the recent past, there had been threats and instances of intimidation of key witnesses and human rights defenders; three witnesses in high-profile cases had even disappeared. The Committee had learned that there were still no specific mechanisms or procedures to prevent persons who had been involved in serious violations from holding or remaining in official Government positions, contrary to the Committee's 2002 recommendation that the State party should set up mechanisms to purge State institutions of individuals who used their positions in public administration to guarantee their impunity.

55. With respect to the witness protection programme, she asked the delegation to clarify whether there was a protocol that judges and prosecutors could follow in handling applications for witness protection. She also wished to know which security forces were responsible for protecting witnesses in cases of crimes against humanity.

56. Argentina had still not approved a juvenile justice regime that complied with international standards. The intention to table a bill to introduce imputability for crimes from the age of 14 was quite worrying since confinement had irreversible and lifelong consequences on young persons. Protection during those formative years was crucial. Although the delegation had provided information on improvements in areas such as access to medical care, vocational training and sports facilities, she wished to know more about the actual living conditions under which children

were held in places of detention. She recalled that in 2008, four minors had died in custody, and official sources had attributed those deaths to suicide, an explanation she did not find convincing. Deprivation of the liberty of young persons should be regarded as a method of last resort, and should be of the shortest possible duration.

57. Although Act No. 26160 on community ownership of indigenous lands had been adopted in November 2009, in reality it had not been implemented: expulsions and violent conflicts had broken out because delimitation, deeds and demarcation of indigenous lands had not been adequately addressed in the legal order. She would appreciate hearing the delegation's opinion on how the Government intended to overcome the remaining obstacles in that regard.

58. **Mr. Thelin** said that he was grateful for the information provided on the Observatory against Discrimination in Soccer. It was unclear, however, to what extent the wrongdoers had been brought before the courts, or whether there had been prosecutions, indictments, or compensation paid for violations committed in connection with acts of racial hatred, anti-Semitism or other forms of inflammatory behaviour.

59. **Mr. Sanchez-Cerro** thanked the delegation for engaging in a comprehensive, direct and open dialogue. He welcomed the information concerning the State party's recognition of its international commitment to the promotion of human rights, and commended its record of compliance with the recommendations of international treaty bodies, and its efforts to provide compensation to victims of human rights violations. Greater attention should be paid to complying with the Inter-American Court of Human Rights decision on the situation in prisons in Buenos Aires. He wondered what measures the State party had adopted to prevent the appointment of persons with a history of human rights violations to public office.

60. Lastly, the State's reluctance to grant legal status to a trade union confederation was an infringement of trade union rights and International Labour Organization conventions on trade union freedoms.

61. **Mr. Amor** said that, from his personal knowledge, religious tolerance was the norm in Argentina. However, it seemed that certain issues, such as subsidies to schools that were not run by the Catholic Church, had not yet been resolved. There had also been complaints of indifference and hostility towards minority religious groups. While it was likely that discrepancies existed in the treatment of religious minorities at the provincial level, he reminded the delegation, that, in accordance with article 50, the provisions of the Covenant should extend to all parts of federal States without any limitations or exceptions. Therefore, it was ultimately the responsibility of the State to ensure that all vestiges of discrimination on the basis of religious belief were eliminated everywhere.

62. **Mr. Bouzid**, referring to the right to freedom of expression, invited the delegation to comment on reports that federal and provincial legislation on certain criteria for public advertisement, had in practice had the discriminatory effect of rewarding or penalizing media for the type of coverage given.

63. **Mr. Alén** (Argentina) said, in response to the question on the regime for witness protection, that apart from the case of the disappearance of Mr. Jorge López, the other persons were found unharmed after the rapid mobilization of forces. Entry into the witness protection programme was based on the submission of an application from the witness and the assessment of eligibility by a judge.

64. With reference to the juvenile justice system, he clarified that although the bill allowed for imputability at the age of 14, other considerations were taken into account: the other provisions of the bill called for the juvenile justice system to be brought into line with international standards on the protection of the rights of the child. With respect to indigenous peoples, he explained that the National Constitution guaranteed the rights of indigenous peoples throughout the entire national territory. Provincial legislation could not override the Constitution.

65. Constitutional support for the Roman Catholic Church did not impinge on the freedom of exercise of any other religion. Subsidies were available to all private educational institutions, not just to Catholic schools and tax benefits were granted to all registered religions without distinction. In fact, those benefits extended to anyone who wished to found a civil association or foundation, or promote a religious or even non-religious belief, as long as it was not incompatible with the defence of human rights and democracy.

66. Turning to international standards on the use of force, he said that since the 1994 constitutional reform, all international standards and treaties in the area of human rights that were fully applicable in Argentina had been incorporated into the hierarchy of laws.

67. As for children born in captivity, he said that persons responsible for appropriating the children were among those being prosecuted, and that 26 out of a total of 100 persons sentenced had been convicted for hiding the identities of children. He wished to assure Ms. Motoc that the Broadcasting Act that had survived the period of military dictatorship had now been repealed and replaced.

68. **Mr. Mattarollo** (Argentina), summing up, said that the Government of Argentina believed in human rights as a fundamental pillar of State policy. Argentina had learned hard lessons during the dictatorship, but would grow stronger over the coming decades because of four main players in the process of recovery. Firstly, the human rights movement, which had remained steadfast in its mission against all odds over the decades; secondly, advanced legal thinking in the 1970s up to the present; thirdly, the role played by investigative journalism in exposing the scope of State terrorism; and, fourthly, the State itself, which had enabled a qualitative leap by fostering the development of solid human rights policies. The Government of Argentina had taken action in a number of areas, such as in the transformation of the Supreme Court by constitutional means. It had overhauled the leadership of the armed and security forces, and had repealed laws that were incompatible with the fundamental principles of international law. While it was true that serious structural problems remained, those were problems shared with many other countries, and, in that regard, the Committee's guidance in finding solutions would be particularly helpful.

69. Throughout Latin America, a powerful wave of legal guarantees had been experienced after the downfall of successive military dictatorships and totalitarian governments. Amid the economic crisis, social marginalization and unemployment of the 1990s, Argentine society had demanded firm leadership and harsh police action, and had pressured the State along those lines.

70. Institutional capacity-building and partnerships with civil society and international expertise had boosted Argentina's efforts in embracing human rights as part of State policy. Even in the area of human rights, Argentina had ventured into new areas of cooperation within regional and international forums, such as the issue of bioethics and human rights, the rights of refugees and immigration.

71. His Government shared the Committee's concern about the implementation of human rights treaties throughout the national territory. It genuinely sought solutions that could ensure that the national State would harmonize federal and provincial policies without resorting to extreme measures. The delegation was convinced that human rights policy and the fight against impunity served the ultimate purpose of reaffirming the positive values on which human rights culture and civilization were based.

The meeting rose at 1.05 p.m.

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Summary record of the 2692nd meeting
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Chair: Mr. Iwasawa

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Third periodic report of Uzbekistan

This record is subject to correction.

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The meeting was called to order at 3.10 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Third periodic report of Uzbekistan
(CCPR/C/UZB/3; CCPR/C/UZB/Q/3 and Add.1)

1. *At the invitation of the Chair, the members of the delegation of Uzbekistan took places at the Committee table.*

2. **Mr. Saidov** (Uzbekistan) said that Uzbekistan had worked actively with United Nations human rights bodies since joining the United Nations. Thirty-two state agencies and 18 non-governmental organizations (NGOs) had participated in the preparation of the current report. In addition to written replies to the Committee's questions, the delegation had provided supplementary information on the implementation of the concluding observations and recommendations issued following the consideration of Uzbekistan's second periodic report (CCPR/C/UZB/2) and specific information on the rights of women and children and the independence of the courts.

3. Over the preceding four years, 10 new laws had been adopted and 15 codes and laws had been amended as part of the implementation of the Covenant and the Committee's concluding observations and recommendations. The new laws had addressed such issues as human trafficking, domestic violence, protection of civil and political rights, and violations of the rights of children and women. A law on combating human trafficking, a Presidential Decree establishing the National Plan of Action for greater effectiveness in combating human trafficking for 2008-2010, and the Supreme Court ruling on jurisprudence in cases that involved human trafficking had all been part of the implementation of the Committee's recommendations.

4. During 2009 Uzbekistan had held parliamentary elections, demonstrating the democratic nature of its electoral process and compliance of all participants with national legislation and international standards. For the second time, the 30 per cent quota for female candidates in a national election campaign had been met and one-fifth of all Members of Parliament were women. Uzbek language versions of handbooks on human rights published by the Inter-Parliamentary Union had been provided to deputies and senators.

5. In an effort to carry out the Committee recommendations, the Government had issued a Decr on a range of measures aimed at increasing financial, human and other resources available to Office of the Ombudsman and the National Centre Human Rights. The activities of human rig institutions in Uzbekistan were entirely in line with Paris Principles. The Parliament had adopted a l allowing the Ombudsman to meet and intervi detained and convicted persons and gain unfette access to penitentiary institutions and forbidding censorship of correspondence between convict persons and the Ombudsman. Some 10 laws had be adopted to encourage further democratization of mass media and to increase its involvement in ensuri openness and transparency of ongoing reforms and implementation of cutting-edge communicati technologies.

6. Numerous laws had been adopted to reform judicial system over the preceding five years. Measu had been taken to ensure judicial independen liberalize the system of penal sanctions, guaran compliance with due process of law by l enforcement agencies and strengthen the role independent courts. The democratic concept informing criminal suspects of their rights (the called "Miranda Rules") had been introduc guaranteeing access to defence counsel at any stage the criminal proceedings and from the moment confinement in the case of arrests.

7. Uzbekistan had conducted human rig information campaigns through government agenc and civil society institutions, educatio organizations, and academic centres. Over 20 le newsletters and journals on human rights topics w being published in Uzbekistan. All mass media outl accorded particular attention to the protection human rights. The provisions of the Covenant had be included in school and university curricula as well continuing education programmes for educato medical and social workers, journalists, lawyers, l enforcement officials and judges.

8. In 2009, Uzbekistan had adopted a National P of Action to implement the recommendations of Human Rights Council issued at its tenth sess following the universal periodic review. Over government entities and NGOs had been called on implement the section of the Plan on ensuring a protecting civil and political rights. During

preceding years, the Uzbek Parliament had ratified seven key international human rights conventions.

9. Both external threats and internal challenges had to be taken into consideration when evaluating the scope of measures taken by Uzbekistan to implement the provisions of the Covenant. Economic and social problems stemming from the global recession were having an impact in Uzbekistan, especially on the more vulnerable social groups. Internal challenges had included the transition of the legislative, executive, and judicial branches to the democratic system, as well as the task of developing a strong civil society and improving the level of legal knowledge within government organs, courts, and law enforcement agencies. Uzbekistan was facing further difficulties due to the grave environmental state of the Aral Sea, which affected national food security and access to safe drinking water, the unstable situation in Afghanistan, accompanied by the continuing production and sale of narcotics, and international terrorism and religious extremism, which posed a threat to stability and diverted resources.

10. Uzbekistan was committed to fulfilling its obligations under the Covenant. It supported all civil and political rights initiatives, in particular, the realization of the second phase of the World Programme for Human Rights Education, the adoption of the Declaration on Human Rights Education and Training, and the global moratorium on the death penalty.

11. **The Chair** noted with regret that the replies to the Committee's list of issues, which had been submitted in the Russian language by the delegation of Uzbekistan in December 2009, had not been translated into the working languages of the Committee. The issue was a matter of great concern to the Committee members and had been brought to the attention of the representative of the Secretary-General during the opening meeting. A meeting with the head of documentation services had been requested.

12. He invited the delegation to address questions 1-15 on the list of issues (CCPR/C/UZB/Q/3).

13. **Mr. Saidov** (Uzbekistan) expressed concern that technical difficulties had prevented the translation of the delegation's responses to the list of issues, underscoring the fact that both the report and the responses had been provided in one of the official languages of the United Nations.

14. **Mr. Rakhmonov** (Uzbekistan) said that rather than being applied directly, the provisions of the Covenant were being gradually incorporated into the Constitution and the various branches of national law. The United Nations treaty bodies had recommended that international human rights laws should be invoked when the courts of the Republic of Uzbekistan ruled on human rights cases and applied directly when assessing potential violations of human rights. Consequently, the Plenum of the Supreme Court had issued explanatory rulings to be invoked by the courts. Those rulings which were binding on investigative personnel and judicial authorities, had referenced international legal standards. The ruling of 2 May 1997, which had formed the basis for the national court system, had directly referenced article 11 of the Universal Declaration of Human Rights and article 14 of the Covenant. The ruling of 24 November 2009 on human trafficking had directly referenced the Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, to the Convention against Transnational Organized Crime, and had amended national legislation on human trafficking to reflect international standards.

15. The Government and the Supreme Court in particular, had always been responsive to the recommendation by the Human Rights Committee that interim measures should be taken to halt the execution of individuals whose cases had been under review and on which the Committee had transmitted its views to the Government. Uzbekistan had ratified the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, in 2008; therefore interim measures were no longer relevant. The death penalty had been abolished and a moratorium on its use had been in place since March 2005. No death sentence had been carried out since that time and all death sentences had been commuted to life imprisonment. The Committee had requested information regarding the measures taken in response to its Views to halt execution in accordance with Rule 92 of the Committee Rules of Procedure, and in the individual cases of *Agabekova*, *Khudayberganov*, and *Arutyunyan* the criminal division of the Supreme Court had commuted the sentences of those individuals to imprisonment. With regard to the other individual cases mentioned in question 2 of the list of issues, the death sentences had been carried out before the Committee had issued its Views.

16. **Mr. Saidov** (Uzbekistan) said that measures had been taken to strengthen the status of the Ombudsman. A new version of the law on the Ombudsman had been adopted that provided legal guarantees of the independence of the Ombudsman. Corresponding legislative changes had granted the Office broad rights with respect to meeting with detainees and convicted persons and had banned the censorship' of correspondence between inmates and the Ombudsman. Meetings and interviews between the Ombudsman and detained, arrested, and convicted persons were allowed, and furthermore, in response to complaints, the Ombudsman had the right to visit prisons without special permission. The Government had designated buildings and personnel for use by the Ombudsman. Recommendations issued by the Ombudsman in response to complaints were binding and had raised the status and the level of trust bestowed on that office.

17. Uzbekistan considered the Andijan events an exclusively internal matter. Demands for an independent, international investigation had no basis in international law. Uzbekistan, as an autonomous State, had conducted its own investigation of those events, basing it on national laws and interests, and had cooperated with the international community in its investigation. Between December 2005 and 1 June 2006, more than 700 diplomats and staff members of international organizations, including the United Nations, the World Bank, UNICEF and the European Parliament had visited the country, demonstrating Uzbekistan's willingness to discuss the events in a transparent manner. Uzbekistan considered the matter closed; the European Union had repealed its related sanctions against Uzbekistan.

18. **Mr. Akhmedov** (Uzbekistan) said that, in accordance with the Constitution of Uzbekistan, a state of emergency could be declared by the President with the agreement of the two chambers of the Parliament only under exceptional circumstances, such as an external threat, public disturbances, major catastrophes, natural disasters or epidemics. In accordance with the Constitution, the procedure for declaring a state of emergency was governed by the Act on the protection of the population and territories from natural and manmade emergency situations of 20 August 1999 and the National Program for forecasting and preventing states of emergency adopted on 3 August 2007. The Act, which was in conformity with the Covenant, protected the rights of citizens to defend their lives, health, persons, and property, as well as the right to means of collective and individual defence. The law had been designed to protect citizens during states of emergency by informing them of the risk to which they were exposed, and where free medical services, compensation and other benefits could be found, inter alia. In line with Committee recommendations, a draft law on states of emergency was being developed that would include additional guarantees to citizens and specify the conditions and procedures for declaring a state of emergency. The law would specifically guarantee the right to life, freedom of thought, conscience and religion, the non-retroactivity of legislation that criminalized or increased the penalty for an act committed during a state of emergency, and the right of citizens to compensation for harm resulting from the declaration of a state of emergency. A conference was planned on the issue of the rights of citizens during a state of emergency with the participation of the relevant national ministries and agencies, civil society, and international experts.

19. In contemporary Uzbekistan, the tradition of bride kidnapping had lost its relevance and had ceased to be a mass phenomenon violating the rights of women. Forced marriage was prohibited by law. A symbolic kidnapping ritual generally required the mutual consent of both the bride and the groom and was followed by registration of the marriage, thereby ensuring the protection of the bride's rights. Young people, and indeed the majority of the population, did not support those traditions and favoured contemporary practices. Forcing a woman into marriage or into staying in a forced marriage and kidnapping a woman in order to force her into marriage or to prevent her from getting married were criminal offences. The Criminal Code did not contain a specific provision on the kidnapping of young women because it fell within the scope of the broader crime of kidnapping. Polygamy, which was defined as the cohabitation of one man with two or more women in a joint household, was also prohibited in the Criminal Code. Polygamy was not recognized when an individual ceased all conjugal relations and initiated a separate, informal marriage. However, when a divorce had been granted as a formality and the perpetrator proceeded to live with both women, that arrangement was recognized as polygamy under the applicable law.

20. **Mr. Shodiev** (Uzbekistan), responding to question 6 on the list of issues, said that his Government's legislation on combating terrorism was in line with the guarantees provided in the Covenant. Under article 4 of the Terrorism Act, the fight against terrorism must be based on the adoption of laws against terrorism but also the respect of individual rights and freedoms. Article 2 of the Act gave an exhaustive definition of terrorist acts.

21. On the issue of torture, he said that not only was his Government's definition of torture under the Criminal Code in line with the Covenant and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, but that anyone who committed torture was held criminally liable under article 235 of the Criminal Code. In an effort to prevent misinterpretation of the concept of torture, a working group had been established in May 2005 to develop commentaries on article 235. His Government had taken into account the Committee's recommendations and its general comment No. 22 in bringing to justice all persons who had committed acts of torture. A human rights unit in the Ministry of Justice and the Office of the Prosecutor had been established specifically to deal with individual human rights complaints. Furthermore, the Office of the Prosecutor conducted an ongoing analysis of the laws in effect and monitored the work of law enforcement officers. A yearly average of 1,000 complaints regarding, inter alia, torture, illegal imprisonment and illegal searches committed by law enforcement officers had been received from 2006 through 2008. As a result, criminal proceedings had been instituted in some 200 cases against law enforcement officers. In 2008, eight cases of torture and illegal detention involving personnel of the Ministry of the Interior and the customs authorities had been tried. Those found guilty had been imprisoned; not a single case of torture had gone unpunished. It should be noted that the use of power and appropriate ways to handle detainees was a major topic of discussion among law enforcement officers in Uzbekistan.

22. **Mr. Rakhmonov** (Uzbekistan), responding to question 8, said that marital rape and non-consensual acts in the absence of resistance were indeed covered by the Criminal Code, as was rape of a close relative. Turning to the issue of the right to life, he said that the Supreme Court had commuted all death sentences to life or similarly long prison sentences. Specifically, 16 death sentences had been commuted to life imprisonment and 32, to long prison terms. As for the imposition of the death penalty during the period leading up to its abolition, he said that although in principle the death sentences could no longer be imposed as from 2007, the death penalty had not been applied since 2005. The families of those for whom death sentences were carried out prior to 2005 were duly informed of the executions.

23. **Mr. Shodiev** (Uzbekistan), responding to question 12 on the list of issues, said that rates of crowding in prisons in Uzbekistan were comparable to that of other countries in Central Asia and Europe. In addition to monitoring implementation of international standards on women detainees, the Government had signed an agreement in 2001 with the International Committee of the Red Cross (ICRC) that allowed it unfettered access to all prisons in Uzbekistan. Article 3 of the agreement stipulated that ICRC would have access to all detainees, including pretrial detention centres and police stations. In 2007, ICRC had conducted 12 visits of prisons and detention centres.

24. Turning to the issue of juvenile detention centres, he said that juveniles were detained separately from adults and accorded treatment appropriate to their age. Juvenile offenders were given such rights as receiving packages and visits, and a number of events were held by the detention centre to ease the juveniles' difficult circumstances. Three months before their release, juveniles were provided with social adaptation classes to prepare them for their return to life outside the centre. There were just eight females in the centre for juvenile female offenders.

25. **Mr. Rakhmonov** (Uzbekistan), responding to question 13 on the list of issues, said that for several years, Uzbekistan had been working closely with a number of organizations internationally to better understand and apply habeas corpus. Given that during the period of detention, preliminary investigations were often very involved, a period of 72 hours remained the most acceptable time frame for pretrial detention. Detainees enjoyed all the rights of suspects, including the right to participate in the case, the right to legal advice and the right to inform relatives of their detention and location. A 72-hour period of pretrial detention had to be decided by the courts and was usually reserved for only the most serious crimes.

26. **Mr. Thelin** expressed appreciation for the State party's timely submission of its report. The Organization's English translation services, and not the State party, were responsible for the fact that an official English version of the written replies had not been provided in time for the Committee's consideration; in that connection, he encouraged the State party to use its good offices as a member of the General Assembly to ensure that such problems did not arise in future.

27. Turning to the State party's periodic report, he said that contrary to the presentation given by the delegation, the information received by the Committee, including from the organization Human Rights Watch, seemed to indicate that progress towards democracy and rule of law had come to a halt.

28. With regard to question 1 on the list of issues, he wished to know whether the State party had considered the total incorporation of the Covenant into domestic law to facilitate its direct invocation to protect human rights. Turning to the issue of the death penalty, he noted with satisfaction that it had been abolished in Uzbekistan. However, it was regrettable that a number of cases tried prior to 2005 had led to executions even as they were being considered by the Committee as individual complaints. The reporting State should clarify which mechanisms existed to satisfy the requests for remedy put by the Committee in its Views.

29. On question 3, given that the Parliament was not a particularly pluralistic body, the Office of the Ombudsman might be seen as representing only the views of the Parliament; clarification as to the Office's independence, as required under the Paris Principles, would be appreciated. Noting that of 9,962 communications received by the Office of the Ombudsman, a mere 301 had been examined on the merits, he asked what actions the Government had taken against the authorities found to be in the wrong. Clarification of close cooperation with international organizations by that Office as referred to in the State party's written replies would also be useful, particularly given the introduction of the phrase "illegal non-governmental organizations" in the Criminal Code and the fact that a number of United Nations special rapporteurs and Human Rights Watch staff continued to be denied entry into Uzbekistan, according to information received.

30. With regard to question 4, he disagreed with the State party's view that the events that had taken place in Andijan in 2005 were an internal matter. The Committee was concerned about possible violations of the right to life, as a number of independent observers had claimed that significant numbers of demonstrators had been killed and that none of the perpetrators had been brought to justice. The fact that the members of the European Union had lifted the sanctions imposed on Uzbekistan following the Andijan events did not bind the Human Rights Committee to do the same; it was his understanding, moreover, that the European Union had lifted those sanctions without prejudice to any human rights violations. The State party should consider inviting an impartial international organization to conduct a thorough investigation of the events.

31. Turning to the issue of habeas corpus, he said it would be useful to learn what level of evidence judges required in order to rule in favour of detention, as well as any less-intrusive alternatives available to them. The State party should also clarify whether court hearings in which habeas corpus was invoked were public or private. Finally, he understood that according to a recent decree, all lawyers practising in Uzbekistan were collectively responsible for monitoring the work of the Ministry of Justice. In that connection, he questioned the independence of the judiciary in pretrial hearings.

32. **Ms. Motoc** enquired as to the status of legislation on states of emergency, which, according to information received by the Committee, was not in line with the provisions of the Covenant. The reporting State should also indicate whether individuals could avail themselves of effective remedies during such periods. Turning to the issue of terrorism, the Committee had received information according to which many people were charged with terrorism without the necessary evidence. It would be useful to learn on what grounds, specifically, alleged terrorists could be arrested.

33. **Ms. Keller** said that the booklet of supplementary information provided by the delegation was very useful, and asked how it was being distributed in Uzbekistan. She also noted that the delegation had no female members, even though she was sure the country had many suitably qualified women. Including women in the delegation would demonstrate that non-discrimination was a living principle in society and in Government, rather than merely in legislation.

34. Referring to the responses to question 7 on the list of issues, she asked for further information about the 45 criminal cases in 2008 relating to forced marriage that had been closed following agreements between the parties, in particular whether the charges had been dropped and if the parties had remained married. She would also appreciate statistics on the same issue for 2009. Similarly, there had been 16 cases relating to polygamy in 2008, and she sought more information on how they had been resolved, as well as the figures for 2009. She asked what steps had been taken to implement the prohibition of polygamy, noting that the definition of polygamy given in Uzbekistan's recent responses to the list of issues of the Committee on the Elimination of Discrimination against Women (CEDAW/C/UZB/Q/4/Add.1) seemed to exclude cases where a man cohabited with two or more women but did not share one household and where a person who had not dissolved a marriage ceased to have marital relations and entered a new marriage. If that was indeed the case, did the Government intend to amend legislation to include those cases? Polygamy being generally accepted by the people of Uzbekistan, she asked whether any measures were being taken to address the traditional justifications for the practice. She also requested further details on efforts to raise awareness about bride abduction. It was the Committee's understanding that, despite recommendations to the contrary, the State had not raised the minimum age for women to marry; she asked what the Government was doing to combat the traditional practice of arranging marriages for girls at the earliest possible age.

35. Turning to question 8 on the list of issues, she asked whether there were any plans to work with the media to encourage a non-stereotypical portrayal of women. She would also be interested to know whether any data had been collected on violence against women and whether there had been any legal reform to address the issue of domestic violence. The Committee had received information that almost all the domestic violence centres that had been established had been forced to close and that the three social adaptation centres that had been established with support from the United Nations Population Fund (UNFPA) had lost their funding and were now simply used by local governments for administrative purposes. She therefore asked what the Government was doing to remedy that situation and to ensure that women fleeing from domestic violence had access to shelter.

36. **Sir Nigel Rodley**, referring to question 9 on the list of issues, welcomed the progress that had been made with the abolition of the death penalty. The ratification of the second Optional Protocol to the Covenant demonstrated Uzbekistan's commitment to the institutionalization of abolition. Some issues remained unresolved, however. The Committee had requested information on the implementation of its previous recommendation regarding the information given to the relatives of persons that had been executed prior to 2005. Merely stating that relatives had been informed in accordance with the law then in force suggested that they had in fact still not been given full information about the date of death, place of burial or issued a death certificate, which would constitute cruel, inhuman and degrading treatment of the families, as addressed in article 7 of the Covenant. He would therefore welcome clarification on those points, in particular whether the families had been informed about the places of burial. With regard to the commutation of the sentences of those on death row when the death penalty was abolished, he asked what criteria, legal basis and process the Supreme Court had used in deciding the length of sentence to be imposed. The Committee had received information that those decisions had been taken in secret, with no involvement from lawyers or family members, and that the families had not even been informed until more than 10 days after the decisions had been taken, meaning that life sentences could not be challenged judicially.

37. With regard to question 10 on the list of issues, there appeared to be a contradiction in the delegation's written response with regard to the compliance of article 235 of the Criminal Code with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on the one hand saying that it was in compliance, while on the other suggesting that measures were being taken to bring it into line. In any case, it was hard to see how the article could be in compliance, since it included only a very limited range of potential victims: a suspect, an accused person, a witness, victim or other party to criminal proceedings, a convict serving a sentence or a close relative of such persons. The Convention against Torture also made reference to persons who, in an official capacity, consented or acquiesced to torture, not just to persons instigating or inflicting torture, which was not included in article 235. That might be the reason that even when charges were made in cases of serious ill-treatment,

they tended to be for other offences, such as the abuse of authority, rather than torture.

38. Turning to question 11, he noted that the delegation had stated that torture was illegal and that there were mechanisms in place to ensure that it did not happen, including new provisions relating to access for lawyers, the exclusion of information obtained through torture and visits by the International Committee of the Red Cross. However, the Committee had received information from a wide range of non-governmental organizations suggesting that in fact the situation had not improved over the past five years. It was being bombarded with examples of torture still occurring with impunity, which suggested that those measures were not effective in practice. After citing a number of the allegations that had been made, he said that it was hard to reconcile all the information received to get a clear picture of the overall situation. It was commendable that detainees had the right to inform a lawyer or family member immediately, and that a lawyer could participate at all stages of the proceedings. However, he asked for clarification about when exactly the proceedings were understood to begin. Did lawyers have the right to be present from the moment of apprehension, or only at a later stage?

39. With regard to question 14, he reaffirmed the Committee's view that 72 hours' detention before being brought before a judge was excessive. The Committee understood that the prosecutor could even prolong that period for a further 10 days; he sought clarification on the means and authority required for such a prolongation. With regard to the proposal to reduce the detention period to 48 hours, he noted that it was unusual for the legislature and the judiciary to want a longer period than the executive department responsible for the detention, so he would appreciate further information about what had led to that apparent conflict.

40. **Ms. Wedgwood**, referring to question 12 on the list of issues, welcomed the news that the Ombudsman and the International Committee of the Red Cross had been able to visit places of detention in Uzbekistan, but noted that procedures for such visits remained difficult. The May 2009 report from the International Commission of Jurists had stated that torture was still prevalent in prisons, a claim that was backed up by reports from former prisoners. Indeed, the number of complaints received showed that whatever mechanisms were in place were not an effective deterrent. Citing some recent allegations of torture that had been brought to the Committee's attention, she said that the continuation of such practices was a disgrace.

41. Turning to question 15 on the list of issues, she noted that even before addressing the issue of separate detention, the Committee had also received reports of torture against juvenile and female detainees, which would be an embarrassment to any State. The written replies had referred to a single facility housing detainees from ages 13 to 21, even though the Covenant stipulated that those under 18 should be detained separately. It was her understanding that juveniles were still transported to court in the same vehicle as adults, and even though the children had separate cells, the conditions in those cells appeared to be excessively harsh. She invited the delegation to comment on that issue, including on the allegations of beatings of children.

42. Since she would not be able to attend the following day's meeting, she proceeded to address question 19 on the list of issues. The term harassment seemed too mild to convey the situation of independent reporters in Uzbekistan, who faced not only such technical difficulties as Internet restrictions and the requirement to have accreditation from the Ministry in order to work for the foreign media, but also the threat of incarceration. Citing several examples of harassment that had come to the Committee's attention, she said that although it was always possible to manufacture such cases, the fact that there was a pattern was troubling and even reminiscent of Soviet times. The Government appeared to be unwilling to engage in an open discussion on the matter, but she hoped the delegation would be able to provide some cause for optimism that such retaliation against journalists could change.

43. **Mr. O'Flaherty**, noting the delegation's assurance that the Office of the Ombudsman was compatible with the Paris Principles, said that the only way of certifying such compatibility was by applying for accreditation to the International Coordinating Committee of National Human Rights Institutions; he wondered why Uzbekistan had not taken that step and if it planned to do so.

44. Regarding the legal framework for the operation of civil society, he would like to know if there were plans to amend the Criminal Code prohibitions regarding statements hostile to the State or critical of

the human rights situation, which had an inhibiting effect on journalists, non-governmental organizations and human rights defenders; if the Government was doing anything to control the repeated denigration of the country's human rights defenders in State-supported media and television programmes, and if it intended to carefully examine the specific cases in which human rights defenders had been intimidated or arrested and abused.

45. The criminalization of same-sex sexual activity in article 120 of the Criminal Code violated the Covenant, especially the non-discrimination and privacy provisions, and consequently the State party had an obligation to repeal that article.

46. **Mr. Amor**, noting that polygamy was not only socially accepted but also legally accepted in principle in Uzbekistan, asked how the Government was combating that misogynistic tradition. He drew attention to the Committee's general comment No. 28, in which polygamy was clearly identified as a human rights violation contrary to the dignity of women. The process of changing mentalities was of course a long one, but the State had the power to act more quickly to amend its legislation.

47. On the issue of anti-terrorism — in whose name so many crimes were committed throughout the world — no Government could set aside human rights in the process, especially in the case of those who might have been unjustly accused of terrorism. He asked for comments on how Uzbekistan's legislation on terrorism was compatible with the Covenant.

48. The delegation had made a distinction between extremism as an internal matter and terrorism, but the two could easily overlap. It would be interesting to know if the concept of extremism had been legally defined or, if it was only a political concept, whether it was used a priori against opponents.

49. **Mr. Salvioli** said that, in addition to dealing with the troubling Criminal Code prohibition of same-sex relations between consenting adults, which was contrary to the Covenant, the State had an obligation to prevent discrimination in society against homosexuals and lesbians, and even their outright harassment. Information would be useful on what the Government was doing to educate its people on that score.

The meeting was suspended at 5.40 p.m. and resumed at 5.50 p.m.

50. **Mr. Saidov** said, before responding to questions, that while the delegation appreciated the Committee's great interest in the situation in Uzbekistan, it had been outraged and offended by the disgraceful accusations made by some Committee members that his Government was not upholding human rights. The delegation had come expecting a respectful dialogue of equals, and the Committee had no right to preach to it.

51. His Government respected the work of Uzbek non-governmental organizations, which had been closely involved in the drafting of its report. It had studied the shadow reports submitted by NGOs to the Committee, but did not agree with all the points made. The Committee should not necessarily trust information that came from outside sources.

52. The Andijan issue was closed, once and for all. To Mr. Thelin, he would point out that there was no binding provision in any international instrument that could compel Uzbekistan to invite an international investigation. The European Union resolution lifting sanctions against Uzbekistan and the refusal of the General Assembly to adopt a resolution sanctioning it were international legal assessment enough of the Andijan events.

53. His Government was one of the few which had concluded a bilateral agreement with the ICRC allowing it to visit all prisons freely — quite a change from the Soviet era. Yet its cooperation with the ICRC was, by agreement, strictly confidential, and there had clearly been a disquieting breach of that confidentiality if a Committee member could cite details from a 2009 ICRC prison visit.

54. All three branches of his Government condemned the use of torture, and would never justify even a single instance of it. Committee members should make only prudent and objective assessments of the situation in a country, and he failed to understand why they preferred the word of NGOs over that of his Government. In 2007, Uzbekistan had protested when a former Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment, Mr. van Boven, had, after asserting that he himself had never written his reports on Uzbekistan but merely signed them, overstepped his mandate and made an allegation of systematic torture in Uzbekistan. Mr. Nowak, the then Special Rapporteur on torture had responded that in fact there was no international legal

definition of the criteria for systematic or widespread torture.

55. Mr. Amor and others had correctly noted that in safeguarding human rights it was essential to bring about a gradual change of mentality. Indeed, Uzbekistan's priority was to change people's perception, and its main challenge was to train people in a culture of human rights, especially those involved in law enforcement. In that connection, it was proud to have proposed the adoption of a United Nations declaration on human rights, which was expected to be adopted at the next session of the Human Rights Council.

56. There was a big distinction between enacting laws and enforcing them, and reducing that gap was another priority of his Government, which recognized that there were problems in the country.

57. He appreciated the remarks regarding habeas corpus, which was indeed a revolution in law enforcement in his country. The Government now needed to work with judges, magistrates, prosecutors and other law enforcement officials regarding its application. In doing so, it would act transparently and would hide nothing from the international community or its population.

The meeting rose at 6.05 p.m.